REMARKS

Claims 1, 15 and 22 are amended herein. Claims 1-35 remain pending in the present application. No new matter has been added.

Double Patenting

The present office action states that Claims 1, 3, 9-15, 19-20, 22, 24 and 30-35 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-9 of copending Application No. 10/325,243.

A terminal disclaimer in compliance with 37 CFR § 1.321(c) is being submitted concurrent with the instant response, thereby obviating the double patenting rejection.

The present office action states that Claims 1, 3, 9-15, 19-20, 22 and 30-35 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-3 and 5-9 of copending Application No. 10/364,643.

A terminal disclaimer in compliance with 37 CFR § 1.321(c) is being submitted concurrent with the instant response, thereby obviating the double patenting rejection.

Claim Rejections - 35 U.S.C. §112

The present office action states that Claims 1-35 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 1-2, 4-10, 13, 15-16, 18-20, 22-23, 25-31 and 34 are rejected under 35 U.S.C. § 112, second paragraph, as containing the trademark/trade name(s): iTunes, iPod, Macintosh and Windows.

Applicants respectfully disagree with the present rejection under 35 U.S.C. § 112, second paragraph. Applicants respectfully point out that section 2173.05(u) of the MPEP

clearly states "The presence of a trademark or trade name in a claim is not, per se, improper under 35 U.S.C. 112, second paragraph." Moreover, section 608.01(v) of the MPEP states "If the trademark has a fixed and definite meaning, it constitutes sufficient identification unless some physical or chemical characteristic of the article or material is involved in the invention."

Applicants respectfully submit that the trademark(s) "iTunes", "iPod", "Macintosh" and "Windows" with further reference to an operating system has a fixed and definite meaning to provide sufficient identification of the operating system characteristics. As such, the rejection of Claims 1-31 under 35 U.S.C. § 112, second paragraph, based on the presence of the trademark(s) "iTunes", "iPod", "Macintosh" and "Windows" is improper and should be withdrawn.

Claim Rejections - 35 U.S.C. §102

Claims 1-20 and 22-35

The present office action states that Claims 1-20 and 22-35 are rejected under 35 U.S.C. § 102(e) as being anticipated by Doherty et al. (6,920,567). Applicants have reviewed the cited reference and respectfully submit that the embodiments of the present invention as recited in Claims 1-20 and 22-35 are not anticipated by Doherty et al. for the following reasons.

With regard to Claim 1 (and similarly Claims 15 and 22), Applicants respectfully state that Claim 1 includes the feature "controlling a data output path of said client system with said compliance mechanism by diverting a commonly used data pathway of said media content presentation application to a controlled data pathway monitored by said compliance mechanism" (emphasis added). Support for the Claimed feature can be found throughout the Figures and Specification including Figures 3 and pages 20 lines 10-17 and 21 lines 5-8.

According to the Federal Circuit, "[a]nticipation requires the disclosure in a single prior art reference of each claim under consideration" (W.L. Gore & Assocs. v. Garlock Inc., 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983)).

Applicants respectfully submit that Doherty et al. does not anticipate the claimed feature "controlling a data output path of said client system with said compliance mechanism by diverting a commonly used data pathway of said media content presentation application to a controlled data pathway monitored by said compliance mechanism" (emphasis added).

In contrast, Applicants understand Doherty et al. to anticipate interrupting the common pathway or stream (emphasis added). Instead, Applicants Doherty to teach that an attempted access is intercepted and subjected to the monitoring and validation by the license monitor and control mechanism. As such the common pathway or stream of digital content is interrupted by this security feature and a validation must be successful in order to allow a user access to the digital content. (see column 4, lines 54-60)" (emphasis added).

Thus, Applicants respectfully submit that the feature "controlling a data output path of said client system with said compliance mechanism by diverting a commonly used data pathway of said media content presentation application to a controlled data pathway monitored by said compliance mechanism" (emphasis added); is not anticipated by Doherty.

For this reason, Applicants respectfully submit that Doherty et al. does not teach or anticipate the features Claimed in Claims 1, 15 and 22. As such, Applicants respectfully submit that Claims 1, 15 and 22 are not anticipated by Doherty et al. under 35 U.S.C. §102(e).

With respect to Claims 2-14, Applicants respectfully state that Claims 2-14 depend from the allowable Independent Claim 1 and recite further features of the present

claimed invention. With respect to Claims 16-20, Applicants respectfully point out that Claims 16-20 depend from the allowable Independent Claim 15 and recite further features of the present claimed invention. With respect to Claims 23-35, Applicants respectfully point out that Claims 23-35 depend from the allowable Independent Claim 22 and recite further features of the present claimed invention. Therefore, Applicants respectfully state that Claims 2-14, 16-20 and 23-35 are at least allowable as pending from allowable base Claims.

Rejection under 103(a)

Claim 21

In the Office Action, Claim 21 is rejected under 35 USC 103(a) as being unpatentable over Doherty et al. in view of Rhoads et al. (6,422,285). Applicants have reviewed the cited reference and respectfully submit that the present invention is not rendered obvious over Doherty et al. in view of Rhoads et al. for the following rationale.

Applicants respectfully submit that Claim 15 includes the feature "A method for preventing unauthorized recording of media content on a Macintosh operating system comprising:

registering a compliance mechanism on a client system having said Macintosh operating system operating thereon, said compliance mechanism comprising:

a framework for validating said compliance mechanism on said client system; and

a multimedia component opened by said framework, said multimedia component for decrypting said media content on said client system; and

preventing decryption of said media content **on said client system** having said Macintosh operating system operating thereon **if a portion of** said compliance mechanism is invalidated." (emphasis added).

For the reasons previously provided herein, Applicants respectfully submit that Claim 15 is not render obvious by Doherty et at. Moreover, the combination Doherty et

al. in view of Rhoads et al. does not overcome the shortcomings of Doherty et al. As such, Applicants respectfully submit that Claim 15 is presently allowable.

With respect to Claim 21, Applicants respectfully submit that Claim 21 depends from the allowable Claim 15 and recites further features of the present claimed invention. Therefore, Applicants respectfully state that Claim 21 is at least allowable as pending from an allowable base Claim.

CONCLUSION

Based on the amendments herein and arguments presented above, Applicants respectfully assert that Claims 1-35 overcome the rejections of record, and therefore, Applicants respectfully solicit allowance of these Claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,
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